

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Joshua Lee Phillips,)	Case No.: 1:24-cv-1949-JD-SVH
)	
Plaintiff,)	
)	
vs.)	
)	ORDER AND OPINION
Sergeant Miles Perkins; Sergeant)	
Steven Fleshman; Sergeant Nicholas)	
Beach; Sergeant Brittany Johnson;)	
Sergeant Steven Taylor; Lieutenant)	
Allen; Lieutenant Swisher; Lieutenant)	
Jason Watkins; Warden Kenneth)	
Nelson; Associate Warden Joseph)	
Canning III; Captain Campisi; Major)	
Dwayne Hingleton; Correctional)	
Officer Crim; Correctional Officer)	
Michael Duffy; Correctional Officer)	
Burt; Nurse Practitioner Evelyn May,)	
)	
Defendants.)	

This matter is before the Court with the Report and Recommendation (“Report”) of United States Magistrate Judge Shiva V. Hodges, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.¹ (DE 18.) Plaintiff Joshua Lee Phillips (“Plaintiff” or “Phillips”), proceeding *pro se*, filed a document entitled “Order to Show Cause for a Preliminary Injunction and Temporary Restraining Order” seeking a court order restraining defendants from various actions, including physically and sexually assaulting him. (DE 3.) Plaintiff

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

attaches signed affidavits detailing alleged actions and inactions and behavior of defendants to include, among other things, Defendants Sergeant Miles Perkins and Sergeant Steven Fleshman (“Fleshman”) sexually assaulting him on June 16, 2022 (DE 1-2, pp. 7–10), and Fleshman assaulting him on August 18, 2022, in retaliation for reporting the June 16, 2022, sexual assault (*id.* at 15–17).

On May 29, 2024, the Court issued orders (1) directing Plaintiff to submit documents necessary to bring this case into proper form and (2) advising Plaintiff of the deficiencies of his filing and permitting him until June 17, 2024, to file an amended complaint. (DE 6, 7.) Plaintiff requested an extension and was permitted until July 18, 2024, to respond to the Court’s orders. (DE 12, 13.) On July 19, 2024, Plaintiff filed a motion for a preliminary injunction and temporary restraining order “due to the seriousness of this suit and due to the fact that once Defendants are served, [Plaintiff] would be retaliated against even more with more cruel and unusual punishment.” (DE 15.) The Report was issued on August 29, 2024, recommending that Plaintiff’s motion for a preliminary injunction and temporary restraining order (DE 15) be denied and that Plaintiff be ordered to comply with the Court’s May 29, 2024, orders within three weeks of this Order.² (DE 18.)

Plaintiff did not file an objection to the Report. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court must “only satisfy itself that there is no clear error on the face of

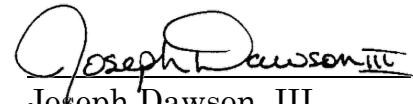
² The Report also warned Plaintiff that failure to comply with the Court’s orders would result in dismissal for failure to prosecute pursuant to Rule 41, Fed. R. Civ. P.

the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Accordingly, after a thorough review of the Report and Recommendation and the record in this case, the Court finds no clear error on the face of the record. Thus, the Court adopts the Report (DE 18) and incorporates it here by reference.

It is, therefore, **ORDERED** that Plaintiff’s motion for a preliminary injunction and temporary restraining order (DE 15) is denied, and Plaintiff is ordered to comply with the Court’s May 29, 2024, orders on or before October 30, 2024.

IT IS SO ORDERED.



Joseph Dawson, III
United States District Judge

Florence, South Carolina
October 15, 2024

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from this date, under Rules 3 and 4 of the Federal Rules of Appellate Procedure.